


City of Sierra Madre Agenda Report

John Buchanan, Mayor
Josh Moran, Mayor Pro Tem
MaryAnn MacGillivray, Council Member
Nancy Walsh, Council Member

Nancy Shollenberger, City Clerk
George Eryedi, City Treasurer

TO: Honorable Mayor Buchanan and Members of the City Council

FROM: Elaine I. Aguilar, City Manager 

INITIATED BY: Elisa C. Weaver, Director of Community & Personnel Services

DATE: December 21, 2011

SUBJECT: **Sierra Madre Police Officers Association Terms and Conditions of Employment for 2011-2012**

SUMMARY

The City Negotiating Team has been actively negotiating with the Sierra Madre Police Officers Association since October 2010. On December 15, 2011 the City declared impasse in these labor negotiations. Staff recommends the City Council adopt *Resolution 11-105: Unilaterally Implementing the Terms and Conditions of Employment for the Sierra Madre Police Officers Association* along with *Resolution 11-92: Amending the Percentage Paid by the Employee of the Employees' Contribution to the California Public Employee Retirement System for Employees in the Sierra Madre Police Officers Association* per the new terms and conditions.

ANALYSIS

On or around June 2008, the City Council and POA agreed to a Memorandum of Understanding (MOU) with the following clause:

COMPREHENSIVE MEMORANDUM OF UNDERSTANDING

During the term of this MOU, representatives of the parties shall commence meetings/communications designed to result in drafting of a Memorandum of Understanding that shall set forth all wages, hours and terms and conditions of employment for POA classifications. The parties shall undertake reasonable steps to complete this comprehensive Memorandum of Understanding not later than June 30, 2008.

On or around July 2008, the City presented the first draft of this comprehensive MOU to the POA for review. After a series of discussions, the City and POA finally met on the draft comprehensive MOU on or around March of 2009. Negotiations continued until approximately October 2009. At this time, the City was considering legal action in order

to have the POA comply with the terms of the previous MOU and to complete a new, Comprehensive MOU.

The POA Board changed on or around January 2010. After initial meetings between the new board and management, the City was assured by the POA that the new board needed some time to assess the POA's status, and then the new board would continue negotiations for the new comprehensive MOU. It was verbally agreed upon that negotiations would begin with a "clean slate;" meaning that the parties would begin the MOU negotiation process with the new POA Board "at the beginning" and not pick up where the previous negotiations had ended.

In October 2010, the POA presented the City with requests to be included in the new comprehensive MOU. Subsequently, the City and POA met on a regular basis and on October 19, 2011 the two groups reached a tentative agreement for a new comprehensive MOU. The POA Board took the tentative agreed upon MOU to the membership on or around Wednesday, November 2, 2011 and the membership voted not to adopt the document.

The City met with the POA negotiating team three more times. On December 5, 2011 the City verbally offered the POA its last, best, and final offer. At the meeting on Tuesday, December 13, 2011, the POA responded that they did not have a counter proposal to the City's offer and did not think that the POA Membership and City could come to an agreement.

Given the POA's rejection of the City's last, best and final proposal, the POA's response that they did not have a counter proposal, and their indication that they did not think the parties could reach an agreement, the City did not believe further negotiations would lead to an agreement and that further negotiations would be futile. On December 15, 2011 the City's presented the POA with a *Declaration of Impasse and Request for an Impasse Meeting* along with a statement of its position on all issues as set forth in the City's last, best and final proposal. The POA decided to have the impasse meeting immediately to discuss the City's last, best and final offer and to proceed as soon as possible thereafter to the City Council for resolution of the impasse. The POA requested that the City Council be presented with a document entitled *Negotiation Meeting, November 9, 2011* so that the City Council would be aware of the concerns some POA members had with the tentatively agreed upon MOU.

The Terms and Conditions of Employment is the first comprehensive document since 2000 and encompass a number of changes and clarifying language throughout the entire document. Some of the most noted changes include:

Article 4	Management Rights	Clarifies management rights, especially as relates to assigning and changing work schedules
Article 7	Public Employees	Safety employees to pay 5% of the EPMC

	Retirement System	Non-safety employees to pay 3% of the EPMC
Article 8	Retiree Medical Insurance	Creates a second tier of retiree medical insurance for employees hired after the ratification of the agreement
Article 9	Uniforms and Safety Equipment	Eliminates the annual lump sum stipend as well as the Departments purchasing of safety equipment; institutes a monthly stipend for both uniforms and safety equipment.
Article 14	Overtime	Clarifies language on when and how overtime will be paid, increases the cap for Compensatory Time by 40 hours
Article 15	Additional Compensation	Sets standardized pay rates for special security detail, on-call, court, training officers, detective, traffic bureau, and POST stipends.
Article 17	Vacation Leave	Streamline the cap and process for buying back vacation leave so that it matches that of the CEA
Article 18	Holiday Leave	Changed to a lump sum granting of Holiday Leave each July 1 st rather than granting throughout the year at the time of each holiday.
Article 22	Administrative Appeal Procedure	Includes language for administrative appeals.

The provision in Article 7 requires the adoption of *Resolution 11-92 Amending the Percentage Paid by the Employer of the Employees' Contribution to the California Public Employee Retirement System for Employees in the Sierra Madre Police Officers Association.*

FINANCIAL REVIEW

The balanced Fiscal Year 2011-2013 Budget adopted at the June 14, 2011 City Council Meeting included the funding savings as a result of the above negotiated items. The City anticipates saving approximately \$100,000 on an annual basis as a result of the employees paying a portion of the Employee Paid Member Contribution (EPMC) to CalPERS. The City also anticipates immediate savings with the overtime provisions and future savings with the second tier of the retiree medical insurance.

LEGAL REVIEW

The Terms and Conditions of Employment for 2011-2012 have been reviewed by both the City's labor relations attorney and the City Attorney and approved as to form.

PUBLIC NOTICE PROCESS

This item has been noticed through the regular agenda notification process. Copies of this report are available at the City Hall public counter and the Sierra Madre Public Library.

ALTERNATIVES

1. The City Council may adopt *Resolution 11-105: Unilaterally Implementing the Terms and Conditions of Employment for the Sierra Madre Police Officers Association* along with *Resolution 11-92: Amending the Percentage Paid by the Employee of the Employees' Contribution to the California Public Employee Retirement System for Employees in the Sierra Madre Police Officers Association* per the new terms and conditions.
2. The City Council may choose not to unilaterally implement terms and conditions of employment for the Sierra Madre Police Officers Association and instruct staff to continue to operate under the current terms and conditions.
3. The City Council may ask questions on the fore mentioned items and provide staff with further direction.

STAFF RECOMMENDATION

Staff recommends the City Council adopt *Resolution 11-105: Unilaterally Implementing the Terms and Conditions of Employment for the Sierra Madre Police Officers Association* along with *Resolution 11-92: Amending the Percentage Paid by the Employee of the Employees' Contribution to the California Public Employee Retirement System for Employees in the Sierra Madre Police Officers Association* per the new terms and conditions.

Attachments (4):

1. Resolution 11-105: Unilaterally Implementing the Terms and Conditions of Employment for the Sierra Madre Police Officers Association
2. Sierra Madre Police Officers Association Terms and Conditions of Employment 2011-2012
3. Resolution 11-92: Amending the Percentage Paid by the Employee of the Employees' Contribution to the California Public Employee Retirement System for Employees in the Sierra Madre Police Officers Association
4. Negotiation Meeting, November 9, 2011

RESOLUTION NO. 11-105

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SIERRA MADRE,
CALIFORNIA, UNILATERALLY IMPLEMENTING
THE TERMS AND CONDITIONS OF EMPLOYMENT
FOR THE SIERRA MADRE POLICE OFFICER'S ASSOCIATION**

WHEREAS, the Sierra Madre Police Officers Association ("SMPOA") is a recognized employee organization; and

WHEREAS, the City and SMPOA entered into a Memorandum of Understanding (MOU) beginning July 1, 2008 and expiring June 30, 2011; and

WHEREAS, the MOU contained Article V. Comprehensive Memorandum of Understanding in which both parties agreed to commence meetings/communications designed to result in drafting a comprehensive MOU not later than June 30, 2008; and

WHEREAS, the City first initiated negotiations with the SMPOA for the comprehensive MOU on or around July 2008; and

WHEREAS, the City and SMPOA began meeting and conferring over the terms of the successor MOU in March 2009 in accordance with Government Code Section 3500 et seq., and

WHEREAS, after several meetings in 2009, 2010 and 2011, the parties reached a tentative agreement on terms for a new comprehensive MOU, which was subsequently rejected by a majority of the membership on November 2, 2011; and

WHEREAS, the City met with SMPOA negotiating team three more times in an attempt to resolve the apparent impasse; and

WHEREAS, on December 15, 2011, the City negotiating term presented the SMPOA negotiating team with formal Declaration of Impasse and Request for an Impasse Meeting, along with a statement of its position on all issues as set forth in the City's last, best and final offer;

WHEREAS, SMPOA negotiating team elected to hold the impasse meeting immediately on December 15, 2011 and requested that the matter be submitted to the City Council for resolution, consistent with the impasse procedures set forth in Section 2.04 of the City of Sierra Madre Personnel Rules and Regulations; and

WHEREAS, the Terms and Conditions of Employment for 2011-2012 include, but are not limited to the following changes:

- Clarifying management rights, especially as related to assigning and changing work schedules; and
- Requiring sworn members to pay 5% of their salaries towards their pension (non-sworn will pay 3%); and
- Creating a second tier of retiree medical insurance for employees hired after the adoption of the terms and conditions; and

- Eliminating the annual lump sum stipend as well as the Department's purchasing of safety equipment; institutes a monthly stipend for both uniform and safety equipment; increases the annual worth of the stipend; and
- Clarifying language on when and how overtime will be paid, increases the cap for Compensatory Time leave; and
- Setting standardized pay rates for special security detail, on-call, court, training officers, detective, traffic bureau, and Police Officer Standardize Training (POST) stipends; and
- Increasing the cap for buying back vacation leave; and
- Creating a lump sum of Holiday Leave each year rather than granting at each holiday; and
- Including language for administrative appeals process

WHEREAS, the City Manager recommends that the City Council exercise its authority to implement terms and conditions of employment which are memorialized in the attached document entitled Terms and Conditions of Employment 2011-2012;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SIERRA MADRE, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. That the meet and confer impasse between the City and SMPOA shall be and is resolved by means of the City Council unilaterally implementing terms and conditions of employment which are memorialized in the attached document entitled Terms and Conditions of Employment 2011-2012.

PASSED, APPROVED AND ADOPTED ON DECEMBER 21, 2011, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

Nancy Sue Shollenberger, City Clerk
City of Sierra Madre

John Buchanan, Mayor
City of Sierra Madre

SIERRA MADRE POLICE OFFICERS ASSOCIATION

Terms & Conditions of Employment

2011-2012

Implemented by Resolution 11-105

12/21/2011

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Article 1 PREAMBLE

It is the intent and purpose of these Terms and Conditions of Employment for 2011-2012 to set forth the wages, hours and/or other items and conditions of employment for the employees of the Police Department represented by the Sierra Madre Police Association ("Association") and the City of Sierra Madre ("City"), in accordance with California Government Code section 3500, et seq. and Chapter 2.48 of the Sierra Madre Municipal Code. These Terms and Conditions of Employment shall remain in effect through June 30, 2012.

Article 2 IMPLEMENTATION

These Terms and Conditions of Employment for 2011-2012 shall not take effect until the City Council acts, by a majority vote, formally to approve and adopt said Terms and Conditions of Employment for 2011-2012.

Article 3 RECOGNITION

The City recognizes the Association as the Recognized Employees' Organization for all classified employees of the Sierra Madre Police Department except the Chief of Police, any Captain(s), and any Lieutenant(s), in accordance with Section 2.48.040 of the Sierra Madre Municipal Code.

Article 4 MANAGEMENT RIGHTS

The rights of the City include and are not limited to all rights provided under State law, and the exclusive right to determine the mission of its constituent departments, commissions and boards; set standards and levels of service; determine the procedures and standards of selection for employment and promotion; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; determine the content of job classifications; determine style and/or types of City-issued wearing apparel, equipment or technology used; establish and enforce dress and grooming standards; assign work to and schedule employees in accordance with requirements as determined by the City; establish and change work schedules and assignments as necessary; and exercise complete discretion over its organization and the technology of performing its work. The City may exercise its management rights without the obligation to meet and confer on the decision to exercise such rights. However, the City shall meet and confer on the impact of the exercise of such rights, unless the matter of the exercise of such rights is provided for in these Terms and Conditions of Employment for 2011-2012, the Personnel Rules and Regulations or Municipal Code. By agreeing to meet and confer as to the impact of any of the City's rights, management's discretion in the exercise of these rights shall not be diminished.

Article 5 EMPLOYEE RIGHTS

Each employee shall have the following rights which he/she may exercise in accordance with all applicable laws, ordinances, rules and regulations, and provisions of these Terms and Conditions of Employment for 2011-2012:

- The right to form, join, and participate in the activities of employee organizations of his/her own choosing for the purpose of representation on matters of his/her employee relations with the City, and the right to refuse to join or participate in the activities of any employee organization.
- The right to pay dues to such employee organizations through the regular payroll deduction.
- The right to be free from interference, intimidation, restraint, coercion, discrimination, or reprisal for membership or non-membership in any employee organization or with respect to any lawful activity associated therewith which is within the scope of representation.
- The right to represent himself/herself individually in his/her employee relations with the City.
- The right to review his/her personnel files by making a request in writing to the Personnel Officer or the Chief of Police.

Article 6 ASSOCIATION RIGHTS

Section 1 Recognition

The City recognizes the right of the Association to govern its internal affairs.

Section 2 Dues

Upon the receipt of a written request and authorization from an employee for deduction of Association "dues," the City shall withhold such dues and deductions from the salary of the employee on a bi-weekly payroll basis and remit the withholdings to the Association in a timely manner. The City shall continue to withhold such deductions unless the employee files a written statement with the City withdrawing authorization for the continued withholding of the deductions.

Section 3 Bulletin Board

The Association shall have sole and exclusive use of specific bulletin board space. Such space shall be clearly marked and identified as such, approximately three feet by four feet in dimension and located in the Police Department. The Chief of Police shall designate the authorized bulletin board space and said space shall be the only space which is authorized for the posting of Association business. Material placed on the bulletin board shall be at the discretion of the Association with the understanding that materials so posted shall be for legitimate communications with its members. Said posting shall not be offensive to good taste, defamatory, involve support or opposition to candidates for political office within City government, or violate City policies regarding harassment, discrimination or retaliation. The Chief of Police or his/her designee shall have the right to remove any such materials upon prior notice to the Association representative. The Association shall be responsible for maintaining

the bulletin board space in an orderly condition and shall promptly remove outdated materials. No other space in the Police Station is authorized for use by the POA.

Section 4 Association Member's Representative

An employee shall be allowed to designate a representative to assist said employee in: preparing and presenting grievances, preparing and processing material for disciplinary hearing, and preparing and presenting material for any legitimate employer-employee relations which representation is granted pursuant to existing law. This representative may be a member of the association as long as the representative is not potentially involved in the matter.

Section 5 Representing the Association

Subject to the needs of the Department and the approval of the Chief of Police, a designated employee representative of the association shall be allowed: 1) reasonable release time from regularly scheduled duties to present grievances and material for disciplinary hearings on behalf of an affected employee if said employee requests said assistance, and 2) to meet with City management representative relative to matters of employer-employee relations.

Section 6 Chief Selection Process

During any selection process for hiring a Chief of Police, the POA Board will meet with the City Manager prior to the City Manager's interview with prospective candidate(s) to give input regarding what the POA would like to see in a new Chief.

Article 7 PUBLIC EMPLOYEES RETIREMENT SYSTEM

Section 1 CalPERS Membership

Consistent with the Government Code, employees who are local safety or miscellaneous members of the California Public Employees Retirement System are entitled to the benefits as indicated in the most recent amendment to the contract between the Board of Administration of CalPERS and the City Council.

Section 2 City Payment of Employee Contribution for CalPERS Retirement

Effective July 26, 2011 the City shall pay six percent of the Employer Paid Member Contribution (EPMC). The employee shall pay three percent of his/her salary toward the CalPERS retirement for the safety employees; miscellaneous employees will pay two percent.

Upon adoption of these Terms and Conditions of Employment for 2011-2012 by the City Council, the City shall pay four percent of the EPMC for safety employees and five percent of the EPMC for non-safety employees. The safety employee shall pay six percent and the non-safety employee shall pay four percent of his/her salary towards the CalPERS retirement.

Section 3 Salary Subject to PERS

The City will include the employer paid member contribution to CalPERS (EPMC) as "salary subject to PERS". The calculation of the salary subject to PERS will be made as follows:

The City will follow "CalPERS Public Agency & Schools Procedures Manual" as it pertains to "reportable and unreportable wages". Total hours reported will not exceed 160 in a 28 day FLSA work period.

Section 4 City Payment of Employer Contribution for CalPERS Retirement

The City shall pay the employer share of the CalPERS retirement contribution as actuarially determined by CalPERS for each fiscal year covered by these Terms and Conditions of Employment for 2011-2012 for the 3% at 55 retirement benefit level for the safety employees; 2.5% at 55 for miscellaneous employees.

Article 8 INSURANCE

Section 1 Employee Insurance

The City shall maintain the following overall level of insurance benefits for each employee covered by these Terms and Conditions of Employment for 2011-2012. The specific coverage is subject to the provisions of the individual insurance company's master contract(s) as issued to the City of Sierra Madre for each type of insurance.

Insurance Benefits offered by the City include:

- Health Insurance
- Dental Insurance
- Life and Accidental Death Insurance (for the employee only)
- Vision Insurance

The City shall contribute up to a maximum of \$650.00 per month in premiums for employee + 2 or more dependents, and will continue to fund up to 25% of premiums in excess of \$650.00 per month (as a payroll deduction).

All insurance benefits offered by the City are subject to COBRA upon an employee's resignation, retirement or other COBRA defined event.

Section 2 Retiree Medical Insurance

For employees hired after the adoption of these Terms and Conditions of Employment for 2011-2012, upon retirement from the City and with an application approved by PERS for retirement benefits, an employee will be extended "employee only" health insurance coverage for the lowest cost plan available from the City at the time of retirement until age 65. An employee must be a minimum of age 60 on the effective date of retirement and have worked 30 years of full-time service with the City to be eligible for this coverage. One dollar is considered to be the City's contribution toward the PERS Health Insurance Program for retirees' medical insurance and shall be reported to PERS as such beginning February 9, 1999 and increasing by five percent per year until it is equal to \$16.

For employees hired prior to the adoption of these Terms and Conditions of Employment for

2011-2012, employee only health insurance coverage will be extended for the lowest cost plan available through the PERS Health Program upon retirement to age 65, based on the vesting level the employee has reached. All other insurance coverage (vision, dental, life) terminate upon retirement and are subject to COBRA. Partial vesting shall be accrued at 5% per full year of service. Employees are subject to the CalPERS vesting schedule described in the table below, which establishes specific percentages of employer contributions based on an employee's credited years of service.

Credited Years of Service	Percentages of Employer Contribution
10	50
11	55
12	60
13	65
14	70
15	75
16	80
17	85
18	90
19	95
20 or more	100

Dependent health insurance coverage may be extended by co-payment by the employee. Premiums for dependent co-payment must be submitted monthly in advance prior to the 15th of each month. The employer portion of dependent co-pay coverage will terminate at age 65 or five years after the employee's death, whichever occurs first or within the guidelines of COBRA; these benefits do not preclude a member or dependent's membership in PEMCHA.

Article 9 UNIFORMS AND SAFETY EQUIPMENT

Section 1 Uniform Stipend

Each employee is responsible for purchasing his or her own safety & uniform equipment. Each sworn employee will receive a uniform & equipment stipend of \$80 on the 28th day of the work period. Non-sworn employees will receive a uniform stipend of \$55 on the 28th day of the work period.

Section 2 New Hires

At the time of hire, new employees on the department will receive:

- 1 Long Sleeve Shirt
- 2 Short Sleeve Shirts
- 2 Pair of Trousers
- 1 Uniform Basket weave belt
- 1 Name Tag
- 1 Field Jacket

- Job related safety equipment which at management's discretion may include: duty belts, weapon, handcuffs, pepper spray, baton.

Shoes are at the employees' expense.

New employees will not receive a uniform stipend until after he/she has completed probation.

Article 10 PROBATIONARY PERIOD

The probationary test period for all personnel hired in an entry level position shall be 18 months. Additionally, the probationary test period for promotional positions shall be 12 months. Further, the probationary test period for all lateral entry sworn personnel in any classification shall be 12 months.

In all instances, the probationary test period shall commence upon the employee being classified in the position to which the test period applies. Additionally, the probationary test period shall automatically be extended by a number of days equivalent to the number of workdays that the employee did not perform services during the test period. The extension applies regardless of the cause for the employee being unable to perform services. The probationary period may be extended by up to six months for any reason at the discretion of the Chief of Police. The exercise of such discretion is not subject to administrative or judicial appeal.

Article 11 SENIORITY

Seniority shall be determined based on: 1) rank, and 2) within a rank, the length of uninterrupted full-time service of an employee in the services of the City. Whether an employee is sworn or non-sworn shall not affect seniority. Seniority shall not be utilized in scheduling shifts; however, it will be used for allocating time off.

Article 12 SHIFTS

The Police Department's normally assigned shifts for uniform patrol and desk duty begin at 0600 hours and at 1800 hours daily.

Patrol officers shall work three 12.50 hour shifts per workweek, plus one 10 hour payback shift during each 28 day work period cycle. If an officer is held over scheduled time, he/she will continue to work at straight time until he/she reaches 171 hours in a 28 day period. Employees assigned to the Dispatch, Traffic, Detective Bureau, Administration, and to Code Compliance shall work 40 hours per a week as assigned. Personnel reporting after the designated time or leaving prior to the designated end of shift without authorization shall be considered tardy and absent without leave. Reasonable efforts shall be made to have on-duty personnel relieved on time without inconvenience or delay in service to the community.

Section 1 Shift Assignments

A shift shall be defined as the working hours during a day shift assignment, an overlap assignment or a night shift assignment. No employee shall be authorized to remain on the same shift for a period exceeding one year, with the following exceptions.

- Administration or Administrative Assistants
- Employees assigned to Code Compliance
- Employees assigned to a Specialized Assignment
- Approval by the Chief of Police

Employees who move to a new shift shall normally stay on that shift for a minimum of six months after which they may move to another shift for a period of one year.

Section 2 Exchange of Days Off

An exchange of days off shall be defined as a "day trade." Requests for a day trade shall be made on a Department approved "day trade form" and shall be submitted at least 10 calendar days in advance of the day trade, unless otherwise agreed to by the Chief of Police or designee. Day trades must be done within the 14 day payroll period in which the requesting employee needs the day off. All non-overtime hours worked during exchanged days off shall be paid at the employee's regular rate of pay.

Section 3 Work Day

A work day shall include "roll call," two 15 minute rest periods and one 30 minute meal break; all on a paid status, but subject to recall.

Section 4 Work Period

For sworn officers a work period shall constitute 28 calendar days per the 7(k) exemption of the Fair Labor Standards Act. For non-sworn employees the work period shall constitute 7 calendar days.

Section 5 Pay Period

A pay period shall constitute 14 calendar days. Each pay check for a pay period shall either be for a minimum of 75 hour pay at regular time or 85 hours pay at regular time. The minimum amount of hours will alternate each pay check between 75 and 85 hours unless the employee was absent without pay at anytime during the work period.

Article 13 SIX-STEP MERITORIOUS PROGRAM

The Six-Step Meritorious Program (SSMP) has been established to provide a means to recognize good performance by City of Sierra Madre employees, and as an attempt to create a competitive market salary structure.

This Program, properly administered, provides a valuable tool for providing employees with an

incentive to strive to achieve a high standard of performance as well as to encourage continued development and growth.

The salary range for each classification under the SSMP will consist of six separate steps with an approximate 5% salary separation between Steps 1 through 6.

Consideration for advancement between steps may occur at intervals of no less than one year. No multiple-step increases may be granted. No newly appointed person will be hired at Step 4-5 without prior approval by the Personnel Officer. The Personnel Officer may approve other signing incentives as he/she deems fit. Under no circumstances will any newly appointed employee be hired at Step 6.

Performance evaluations for consideration of merit adjustments will be due annually based upon the employee's anniversary date of appointment to their current classification. Any employee on a leave of absence (paid or unpaid) for more than 30 days in a rating period will have their annual review date adjusted accordingly.

Recommendation for a step increase or denial of a step increase must be accompanied by a performance evaluation to substantiate performance and must be approved by the Chief of Police prior to the supervisor reviewing the evaluation report with the employee. Any recommended step increase will be effective the first of the pay period immediately following the employee's anniversary or annual review date.

Advancement from Step 1 through Step 6 will be contingent upon receiving an overall performance rating of "meets job standards" or better on an employee's annual performance evaluations. Performance evaluations will be conducted per the City's Personnel Rules & Regulations.

Article 14 OVERTIME

Overtime shall be paid in accordance with the Federal Fair Labor Standards Act ("Act") and specifically in accordance with the partial overtime exemption of Section 7(k) of the Act. In determining an employee's eligibility for overtime compensation in a work period, paid leaves of absence and unpaid leaves of absence shall be excluded from the total hours worked. Paid leaves of absence include, but are not limited to the following:

- Vacation Leave
- Holiday Leave
- Sick Leave
- Administrative Leave
- Compensatory Leave
- Worker's Compensation Leave
- 4850 Time
- Jury Duty
- Bereavement Leave

- Military Leave

Section 1 Sworn Officers

Overtime will be paid at a rate of one and one half after an employee has worked 171 hours in a 28 day work period. In addition to the minimum overtime requirements of the Act and other applicable laws, all unscheduled overtime shall be paid at the employee's regular rate multiplied by one and one-half when a shift is assigned and worked without 48-hours notice.

This provision shall not apply to an employee whose normal shift has been extended or to an employee who has started his/her shift one hour earlier than his/her normal work shift would begin.

Section 2 Non-sworn Employees

Overtime will be paid at a rate of one and one half after an employee has worked 40 hours in a 7 day work period. In addition to the minimum overtime requirements of the Act and other applicable laws, all unscheduled overtime shall be paid at the employee's regular rate multiplied by one and one-half when a shift is assigned and worked without 48-hours notice.

This provision shall not apply to an employee whose normal shift has been extended or to an employee who has started his/her shift one hour earlier than his/her normal work shift would begin.

Section 3 Compensatory Time

Any employee working overtime may designate either payment or "credit" to the employee's Compensatory Time Account. The "Compensatory Time Account" for any employee shall be limited to 200 hours. An employee shall notify the Department at least seven calendar days prior to taking time off credited to "Comp Time," except that pursuant to current practice, when a position is already staffed and does not require coverage by another employee working overtime, the seven calendar days notice shall not apply.

City-wide emergencies, special events, movie details, bicycle patrol and special details are cash payment only assignments and are not eligible for compensation time account credits.

Article 15 ADDITIONAL COMPENSATION

Section 1 Signing Bonus / Finder's Fee

In order to improve the City's ability to recruit sworn officers, a \$5,000 signing bonus and a \$1,000 finder fee has been implemented. One half of the \$5,000 signing bonus would be paid to a new sworn officer on her/her first day of work and the other half would be paid to them when the successfully complete probation. If a sworn officer leaves prior to serving the City for three years, the second half of the signing bonus will be returned to the City. Further, \$1,000 would be available to any city employee who "sponsors" a new police officer who is hired by the City. One half of the \$1,000 finder's fee will be paid to the individual on the day the new police officer is hired and the other half will be paid to them when the officer successfully

completes probation.

Section 2 Special Security Detail

Employees covered under these Terms and Conditions of Employment for 2011-2012 electing to serve special security detail for movies and other special security detail must be trained in traffic control regulations. Compensation will be at a set rate depending on the actual job performed. Supervisors will receive \$50 per hour, officers \$40 per hour, and traffic control \$30 per hour; therefore, a sergeant working an officer assignment will be paid the officer rate of \$40 per hour. Payment for special security details are not eligible for Compensatory Time "credit" and must be taken as a cash payment. Eligibility and assignment for special security detail shall be determined by the Chief of Police or designee. This time is not counted as "time worked" towards an employee's FLSA overtime.

Section 3 On-Call / Standby Compensation

Pursuant to operational needs, any employee who is on "stand-by" shall receive \$50 for each 24 hour period. Standby duty requires that the employee:

- Be ready to respond immediately to calls for service;
- Be reachable by telephone, pager, or police radio;
- Be enroute to work as soon as possible, but no longer than 30 minutes after receiving call;
- Refrain from intoxicants or other activities which might impair the ability of the officer to perform the assigned duties.

An employee trained in other operational duties may be placed on "stand by" for another capacity other than his/her regular duties.

Failure to be reachable by telephone, pager, and/or police radio and/or to report for duty when on call will result in disciplinary action and forfeiture of the \$50 stipend.

Section 4 Criminal Court Compensation

The minimum pay for DMV, traffic related and criminal court appearances shall be four hours. If said employee's court appearance is for more than four hours, said employee shall be paid for all hours in conjunction with said court appearance towards FLSA overtime. If any employee is released from court prior to the four hour minimum the employee must report to work unless otherwise authorized by the Chief or his/her designee.

The above minimum pay includes compensation for court preparation time (securing reports, evidence, etc.), transportation time to and from court from the station, and personal transportation. All other time-keeping procedures will remain in effect. If the employee is pre-approved to use his/her own car, mileage will be paid at the then current City mileage reimbursement rate.

The watch commander is required to contact the handling attorney 24 hours or the business day prior to the date of the scheduled court appearance to verify the necessity to appear. Said

employee, if excused from appearance, must be notified by the end of the business day prior to the court appearance, otherwise the employee is entitled to the minimum court appearance pay. Court standby will continue to be 2 hours for each session (morning and afternoon). It is the responsibility of the officer to determine if afternoon on-call is required. Each employee shall be entitled to a maximum of two hours for "on-call" status per each day regardless of the number of subpoenas.

This compensation is awarded at straight time; on-call is not counted as "time worked" towards an employee's FLSA overtime.

Section 5 Administrative and Job Related Civil Appearance

Employees required participating in administrative and job related civil appearances will be paid straight time for time served. Time will be counted towards FLSA overtime.

Section 6 Training Compensation and Reimbursement

When City employees must travel for training during the day, a City vehicle, if available, should be used. If a City vehicle is not available, the City will reimburse the employee for business use of a personal vehicle at the IRS established rate (revised periodically) in effect on the day of travel. This reimbursement is calculated from the Police Station to the training location and subject to the Vehicle Usage Policy. Each employee is required to contact dispatch when he/she arrives and again when he/she leaves the training location. No meal reimbursement will be provided for day travel should an employee travel outside the City during a regularly scheduled meal break. If any employee is scheduled for less than eight (8) hours, the employee must report back to work upon completion of the training. Any training scheduled for eight (8) or more hours on an employee's regularly scheduled work day will be considered the employee's regular work day.

Overnight travel must comply with the policies outlined in the Personnel Rules and Regulations.

Section 7 Training Officer

Employees who engage in training a probationary employee will receive a \$250 stipend on the 28th day of the work period provided they are actively training such new employee during that work period. A "Request for Training Compensation" form must be completed each period to receive compensation. This special assignment is subject to testing per the Personnel Rules and Regulations.

Section 8 Detective and Traffic Bureau

A sworn officer assigned to either the Detective or Traffic Bureau will receive a \$250 stipend on the 28th day of the work period. The stipend may be prorated depending on number of day assigned to the bureau. This special assignment is subject to testing per the Personnel Rules and Regulations and holds a term of two years with up to two six month extensions at the discretion of the Chief of Police.

Section 9 POST Stipends

POST Stipends will be paid on the 28th day of the work period.

Article 16 ATTENDANCE

The Department's successful operation depends in large part upon the attendance of each of its employees. Each member of the Department has an important job that fits into a pattern of service. Unnecessary and unexcused absences, therefore, are undesirable because they affect not only operations but the way in which fellow employees are able to do their jobs. It is important to have a uniform attendance policy to avoid any misunderstanding regarding attendance expectations.

Section 1 Definitions

"Abuse of Sick Leave" means the misrepresentation of the actual reason for taking sick leave, using sick leave for unauthorized purposes, failure to report sick leave, and may include chronic, persistent, or patterned use of sick leave.

"Authorized Absence" is permission to be absent from duty for a specified purpose, with the right to return before or upon the expiration of the leave.

"Tardiness" is the failure of the employee to report to work at the commencement of the scheduled shift or workday or the failure to return to work at the scheduled time following a meal break, rest period, or when called back to the station.

"Unexcused Absences" are those that have not been approved in accordance with agency policy, e.g., absent without calling in, leaving work early without prior approval.

Section 2 Leave Counseling

Employees who demonstrate attendance problems, including but not limited to Abuse of Sick Leave, Tardiness, or Unexcused Absences, shall first be counseled by their immediate supervisor. If the problems persist, a written reprimand shall be issued and the employee shall be counseled by the Chief or his/her designee. If an employee has a personal health, physical or emotional problem, he or she shall be referred immediately for assistance.

Reprimands for attendance will become a part of the employee's permanent personnel record.

Section 3 Disciplinary Provision

Any unauthorized absence may constitute cause for disciplinary action, up to and including discharge from employment.

If it appears that an employee is abusing sick leave or is using sick leave excessively, the employee will be counseled that continued use of sick leave may result in a requirement to furnish a medical certificate for each such subsequent absence for sick leave regardless of duration. Continued abuse of leave or excessive use of sick leave constitutes grounds for dismissal.

Section 4 Job Abandonment

An employee is deemed to have resigned if the employee is absent for three (3) consecutive shifts without prior authorization and without notification during that period of absence. On the second shift of unauthorized absence, the supervisor shall personally serve upon or send an overnight letter to the employee’s last known address informing the employee that if the employee fails to report to work within two (2) calendar days, or receive authorization for such absence, the employee will be deemed to have resigned.

An employee deemed to have resigned due to job abandonment who was medically incapacitated and able to show proof that he/she and/or his/her next of kin was unable to contact the Department may appeal to the Chief of Police if he/she wishes resume his/her position. Based on the Chief of Police’s recommendation, the City Manager’s will have sole discretion on whether or not, and under what conditions, to re-hire the employee.

An employee who has reported to work his/her assigned shift and chooses to leave the work place without authorization, will be considered absent without official leave (AWOL) and will be subject to disciplinary action, up to and including discharge from employment.

Article 17 VACATION LEAVE

Full-time employees are entitled to annual vacation leave with pay. Vacation leave shall be earned from the first day of probationary employment and may be used only as it is earned. Requests for vacation leave exceeding the amount of leave will require the prior approval of the Personnel Officer.

Section 1 Vacation Accrual

Every full-time probationary and regular employee shall accrue paid vacation leave per payroll period and annually as follows:

<u>Years</u>	<u>Length of Service</u>	<u>Per Payroll</u>	<u>Annually</u>
1 – 4	0 - 48 months	3.385 hours	88.010 hours
5	49 – 60 months	3.693 hours	96.018 hours
6	61 - 72 months	4.000 hours	104.000 hours
7	73 - 84 months	4.308 hours	112.008 hours
8	85 - 96 months	4.616 hours	120.016 hours
9	97 - 108 months	4.923 hours	127.998 hours
10	109 - 120 months	5.231 hours	136.006 hours
11	121 - 132 months	5.539 hours	144.014 hours
12	133 - 144 months	5.847 hours	152.022 hours
13	145 - 156 months	6.154 hours	160.004 hours
14	157 - 168 months	6.462 hours	168.012 hours
15	169 – 180 months	6.770 hours	176.02 hours

16	181 – 192 months	7.077 hours	184.002 hours
17	193 – 204 months	7.385 hours	192.010 hours
18	205+ months	7.693 hours	200.018 hours

Vacation shall accrue bi-weekly on a pro rata basis and increases shall occur at the beginning of the month. For purposes of this section, continuous service shall include time in which an employee is on an authorized leave of absence with pay.

Section 2 Accumulated Vacation

Employees may accumulate up to a total of 135 hours vacation time, not including the current year's allocation as of January 1, of any given year. For example, if an employee's annual accrual is 104 hours annually, the employee may accumulate 104 hours + 135 hours, up to 239 hours. This employee will cease to accumulate any vacation leave over 239 hours.

After 80 hours of Vacation Leave have been taken in a 12 month period, the employee may request payment in cash at the employee's regular hourly rate, as long as 40 hours of vacation leave remains on the books.

Article 18 HOLIDAY LEAVE

On July 1 of each year, each Association Member will be granted 104 hours of Holiday Leave. A *Request for Leave of Absence* form shall be submitted fifteen working days prior to any use of holiday leave. The balance of any Holiday Leave will be automatically cashed out at the employee's regular hourly rate on June 30th on the regular paycheck for that pay period. This leave may not be cashed out at any other time during the fiscal year.

Article 19 LIGHT DUTY

At the discretion of the Department, a limited number of temporary light duty positions may be identified. The Department may assign employees injured on duty to light duty positions. The Department has the discretion to consider approving requests that involve off-duty injuries for light duty positions; however, on-duty or industrial injuries will take precedence.

Light duty assignments will be limited to 90 calendar days. The Personnel Officer may approve a one-time extension of that time frame where circumstances warrant. If an extension is granted, it does not create a permanent light duty position, but is intended solely to reasonably accommodate an employee on a temporary basis.

If the Chief of Police determines that the department is unable to accommodate the restrictions, the employee will be subject to the City's Transitional Return to Work Policy.

Article 20 OUTSIDE EMPLOYMENT

No full-time employee shall engage in any outside employment without first obtaining permission of the Chief of Police prior to the commencement of employment. Once permission is granted, the employee must again request permission annually on January 1st of each year. The request for outside employment must be done in writing and it must be completed for any outside employment regardless of length or classification of employment. The Chief of Police may deny permission to an employee to engage in any outside employment which is incompatible with City employment as described in Government Code section 1126 or if the Chief determines that the outside employment would render the employee incapable of, or less effective in performing his/her duties as an employee of the City. Failure of any employee to obtain prior written approval of the Chief of Police is grounds for discipline, up to and including termination.

Article 21 DISCIPLINE

Section 1 Disciplinary Action

Disciplinary action may be imposed upon any employee for any of the causes set forth in this Article. For the purposes of this Article, "disciplinary action" (hereafter "action") shall mean suspension without pay, reduction in class or position, or any combination thereof, or dismissal.

Section 2 Cause for Disciplinary Action

Any of the following shall be cause for the imposition of disciplinary action:

- Violations of any provision of these Terms and Conditions of Employment for 2011-2012;
- Violations of any provision of the SMPD Policies & Procedures Manual;
- Violations of any provision of the Personnel Rules and Regulations;
- Incompleteness or inefficiency in the performance of the employee's duties;
- Insubordinate conduct directed at a supervisor or Department Head;
- Violation of any official regulation or order;
- Final conviction including a plea of guilty or *nolo contendere* of any criminal offense involving moral turpitude;
- Negligent or willful conduct by any employee which results in, or causes damage to public property or waste of public supplies;
- Absence without authorized leave;
- Excessive absence without good cause; and
- Any other good and sufficient cause.

Section 3 Imposition of Disciplinary Action

Disciplinary action may be imposed upon an employee as follows:

The Chief of Police shall serve a notice of intended disciplinary action upon the employee stating the disciplinary action that is being proposed, the charges upon which the proposed disciplinary action is based, and a general description of the facts and/or circumstances

supporting the charges. The notice shall inform the employee that he or she may respond to the notice in writing and/or in person. Any written response must be submitted to the City Manager within five business days of receipt of the notice. If the employee wishes to respond to the notice in person, he/she must submit a written request for a meeting with the City Manager. The request must be submitted to the City Manager within five business days of receipt of the notice.

If a timely request is made by the employee, the City Manager shall conduct an informal meeting with the employee to permit the employee to respond to the notice. The employee is entitled to be represented at the meeting by an attorney or association representative. The meeting shall be conducted at a time and in the manner determined by the City Manager. The City Manager shall have the authority to impose, reject, or modify the proposed disciplinary action. If a timely request for a meeting is not made by the employee, the City Manager may immediately impose the proposed disciplinary action.

The City Manager shall give the employee written notice of his/her decision which shall, in the absence of an appeal, be considered final and conclusive. At this time the disciplinary action shall be imposed.

Section 4 Appeals

A permanent employee, against whom disciplinary action has been taken, may appeal to the City Council within 10 business days after receiving a copy of the City Manager's decision and by filing a written answer to such decision with the City Manager. Appeal can be made on the following grounds:

- That the procedures set forth herein have not been followed.
- That the action taken was not in accord with the facts.

Upon receipt of a timely appeal, the City Manager shall advise the City Council thereof and shall forward a copy of the statement of charges, the City Manager's notice of decision and the employee's answer to such decision. The City Council shall give the appealing party written notice of the time and place of the hearing to be held before the City Council upon such appeal. The hearing shall be limited to items which are disputed by the employee and contained within employee's written answer to the City Manager's decision. All items not disputed by the employee shall be deemed admitted by the employee for the purposes of the hearing.

Section 5 Hearing Procedure

Hearings shall be conducted in the manner most conducive to determination of the truth, and the City Council shall not be bound by technical rules of evidence. Decisions made by the City Council shall not be invalidated by any informality of the proceedings.

The formal rules of evidence shall not apply. All hearings shall be conducted in an orderly and expeditious manner with a view to the presentation of all material facts so that a fair and impartial decision may be made. The City Council shall have full authority at all times to maintain orderly procedure and to restrict the hearing to facts and witnesses that are relevant

to the appeal, and that are not unduly time consuming, cumulative, prejudicial, confusing or misleading.

Each side will be permitted an opening statement (City Manager or designee first) and closing arguments (City Manager or designee first, employee second, followed by rebuttal by City Manager or designee). The City Manager or designee shall first present the witnesses and evidence to sustain the charges. Then, the employee shall present his/her witnesses and evidence in defense. Each side will be allowed to examine and cross-examine witnesses. The hearing shall be recorded by a certified shorthand reporter.

The City Council shall have the authority to issue subpoenas to compel the attendance of witnesses. If any person in proceedings before the City Council disobeys or resists any lawful order or fails to respond to a lawfully issued subpoena, refuses to take the oath or affirmation as a witness, or thereafter refuses to be examined, or is guilty of misconduct during the hearing or so near the hearing location as to obstruct the proceeding, the City Council may, pursuant to the authority of Government Code sections 11455.10 et seq., certify the facts to the Superior Court and request the Court to issue an order directing the person to appear before the Court to show cause why he or she should not be punished for contempt.

Each party may be represented by an attorney. Each party shall bear its own costs, including attorney fees, in connection with the proceeding.

In his/her discretion, the City Council may designate a neutral hearing officer to conduct the hearing. The hearing officer will be selected through from strike list in conjunction with the employee. The hearing officer shall have the same powers as the City Council in conducting the hearing on behalf of the City Council. The hearing officer shall render a recommended decision to the City Council who shall set forth proposed findings of fact and conclusions of law in support of the recommended decision. The City Council may adopt, modify, or reject the recommended decision. The City and the employee shall equally split the costs of the neutral hearing officer.

The final decision by the City Council shall be subject to judicial review under Code of Civil Procedure section 1094.5 within the time limits described in Code of Civil Procedure section 1094.6.

Article 22 ADMINISTRATIVE APPEAL PROCEDURE

The following administrative appeal process is established pursuant to Government Code § 3304.5. It shall supplement, though not replace, the disciplinary appeal process established in Article 11.

This procedure shall not apply to disciplinary actions for which officers already are entitled to receive an appeal hearing pursuant to the City's Municipal Code or existing personnel rules. It shall only apply to punitive actions, as that term is defined by Government Code § 3303, for

which officers do not already receive an appeal hearing under Article 11.

Section 1 Right to Administrative Appeal

Any public safety officer (as defined by Government Code § 3301), who is subjected to punitive action (as defined by Government Code § 3303) other than dismissal, demotion, or suspension without pay is entitled to an administrative appeal pursuant to this procedure. An officer shall not be entitled to appeal an action prior to its imposition.

An officer who appeals a punitive action under this procedure shall bear his/her own costs in association with the appeal hearing, including but not limited to any and all attorney fees.

Section 2 Notice of Appeal

Within five (5) calendar days of receipt by an officer of notification of punitive action, the officer shall notify the Chief of Police in writing of the officer's intent to appeal the punitive action.

The notice of appeal shall specify the action being appealed and the substantive and procedural grounds for the appeal.

Section 3 Hearing Officer

The City Manager shall serve as the hearing officer. Alternatively, the City Manager may designate a hearing officer of his or her choosing at his or her sole discretion who will issue an advisory opinion to the City Manager. The City Manager may adopt, modify, or reject the hearing officer's advisory decision and the City Manager's decision shall be final and binding.

Section 4 Burden of Proof/Persuasion

Unless the action being appealed involves allegations of misconduct (i.e., allegations that the officer has violated one or more federal, state, or local laws, and/or City or Police Department regulations, procedures, or rules) the limited purpose of the hearing shall be to provide the officer the opportunity to establish a record of the circumstances surrounding the action. The Department's burden shall be satisfied if the Department establishes that the action was reasonable, even though reasonable persons might disagree about whether the action was the best one under the circumstances.

If the punitive action involves charges of misconduct, (i.e., allegations that the officer has violated one or more laws, regulations, procedures, or rules), the Department shall have the burden of proving by a preponderance of the evidence the facts which form the basis for the charge of misconduct and the burden of persuasion that the punitive action was reasonable under the circumstances.

Section 5 Conduct of Hearing

The formal rules of evidence do not apply, although the hearing officer shall have discretion to exclude evidence that is incompetent, irrelevant or cumulative, or the presentation of which will otherwise consume undue time.

The parties may present opening statements.

The parties may present evidence through documents and direct testimony.

The parties shall not be entitled to confront and cross-examine witnesses.

Following the presentation of evidence, if any, the parties may present closing arguments.

Section 6 Recording of the Hearing

The hearing shall be audio recorded. A stenographer may be used in lieu of an audio recording at the discretion of the hearing officer.

Section 7 Representation

The officer may be represented by a representative of his or her choice at all stages of the proceedings. All costs associated with such representation shall be borne by the officer.

The Department shall also be entitled to representation at all stages of the proceedings.

Section 8 Decision

The City Manager shall serve the parties with written notice of his/her decision within thirty (30) calendar days of submission of the case by the parties for decision (or receipt of the recommended decision by the hearing officer).

The decision shall be served by first class mail upon the officer or the officer's attorney or representative. The decision shall be final upon mailing of the decision.

If judicial relief is available pursuant to Code of Civil Procedure Section 1094.5, then a petition must be filed within 90 days as specified in Code of Civil Procedure Section 1094.6.

Article 23 GRIEVANCE PROCEDURE

Section 1 Purpose

The purpose of this Article is to provide employees a grievance procedure within the scope and framework of the City's personnel system. For the purpose of this Article, the word "grievance" shall mean and include any complaint arising out of alleged violations of written rules and regulations, policies, administrative procedures, or these Terms and Conditions of Employment for 2011-2012, except that the same shall not include any disciplinary action or proceedings.

Section 2 Individual Petition Procedure

An employee or group of employees having a complaint or grievance (hereinafter "Grievant") shall present their grievance in a written statement to the immediate supervisor for resolution within 10 calendar days of the alleged violation being grieved. The immediate supervisor shall have 10 calendar days to respond to the grievance in writing. If the grievance cannot be

resolved with the immediate supervisor, the grievant may present his/her written grievance up the Chain of Command, with the grievance going to the Chief of Police last. Each supervisor will have 10 days to review of the decision by previous supervisor. The Chief of Police shall have 14 calendar days to respond in writing to the grievance.

If the grievance cannot be resolved by the Chief of Police, then the grievant may submit the written grievance to the City Manager not more than 10 calendar days from the date of the Chief's decision.

The City Manager may conduct an investigation into the grievance as he or she deems necessary. The City Manager shall issue a written decision on the grievance within 14 calendar days of his/ her receipt of the grievance.

The timelines for filing and/or responding to any grievance may be extended by mutual agreement of the parties. Any such agreement must be confirmed in writing. If any response to a grievance is not timely, then the grievance shall be considered to have been denied and may proceed to the next step. The decision of the City Manager is final and binding.

Section 3 Association Petition Procedure

The Association may file a grievance on behalf of the Association as a whole for any violation of these Terms and Conditions of Employment for 2011-2012. The Association shall present their grievance in writing to the Chief of Police. The Chief of Police shall have 14 calendar days to respond in writing to the grievance.

In the event of failure to resolve the case of the dispute with the Chief of Police, the Association, by a majority vote of the Board of Directors and by notifying any/all employees affected by this grievance may then request a meeting with the City Manager and the City Manager shall hold said meeting for the discussion and attempted resolution of the matter.

If the Association is dissatisfied with the determination of the City Manager, the Association may appeal such a decision by filing a written letter of appeal with the City Council within 30 calendar days after the giving of notice by the City Manager. The City Council, upon receiving a timely appeal, shall instruct the City Manager to give the appealing party (or parties) written notice of the time and place of the hearing.

At the time of the hearing before the City Council, all interested parties shall be given reasonable opportunity to be heard upon the merits of the grievance and the positions taken with reference thereto. Upon conclusion of such hearing, the City Council shall review the testimony given and shall approve, disapprove or approve with modification, the decision rendered by the City Manager. The City Council's decision shall be final and conclusive in all cases.

In his/her discretion, the City Council may designate a neutral hearing officer to conduct the hearing. The hearing officer shall have the same powers as the City Council in conducting the hearing on behalf of the City Council. The hearing officer shall render a recommended decision

to the City Council. The City Council may adopt, modify, or reject the recommended decision. The City shall bear the costs of the neutral hearing officer.

Article 24 TERMS AND CONDITIONS OF EMPLOYMENT FOR 2011-2012

These Terms and Conditions of Employment for 2011-2012 are subject to all future and current applicable Federal and State laws and regulations. If any part or provision of these Terms and Conditions of Employment for 2011-2012 are in conflict with such applicable provisions of Federal and State laws and regulations, or are otherwise held to be invalid or unenforceable by any tribunal of competent jurisdiction, such part of the provision shall be suspended and superseded by such applicable law or regulations, and the remainder of these Terms and Conditions of Employment for 2011-2012 shall not be affected.

If any City rule or ordinance is not in conflict with these Terms and Conditions of Employment for 2011-2012, it shall supersede these Terms and Conditions of Employment for 2011-2012.

Current rules and regulations of the City that do not deal with matters covered by these Terms and Conditions of Employment for 2011-2012 shall remain in full force and effect.

**RESOLUTION NO. 11-92
AMENDING THE PERCENTAGE PAID BY THE EMPLOYER OF THE
EMPLOYEES' CONTRIBUTION TO THE CALIFORNIA PUBLIC EMPLOYEE
RETIREMENT SYSTEM FOR EMPLOYEES IN THE SIERRA MADRE POLICE
OFFICERS ASSOCIATION**

THE CITY COUNCIL OF SIERRA MADRE DOES HEREBY RESOLVE:

WHEREAS, the governing body of the City of Sierra Madre has the authority to implement Government Code Section 20691; and

WHEREAS, the governing body of the City of Sierra Madre has a written labor policy or agreement which specifically provides for a portion of the normal member contributions to be paid by the employer; and

WHEREAS, through the impasse process of a new comprehensive labor terms and conditions, employees in the Police Officers Association will begin paying a larger portion of their salary into their retirement with the California Public Employees Retirement System; and

WHEREAS, the governing body of the City of Sierra Madre has identified the following conditions for the purpose of its election to pay EPMC.

- This benefit shall apply to all employees in the Police Officers Association in the City of Sierra Madre.
- This benefit shall consist of paying four percent (4%) of the normal member contributions as EPMC for sworn members.
- This benefit shall consist of paying five percent (5%) of the normal member contributions as EPMC for non-sworn members.
- The effective date of this Resolution shall be January 1, 2012.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the City of Sierra Madre elects to pay EPMC, as set forth above.

Approved and Adopted on the 21th day of December, 2011.

Mayor, City of Sierra Madre, CA

I, the undersigned, hereby certify that the foregoing Resolution was duly adopted at a regular meeting of the City of Sierra Madre City Council on the 21st day of December, 2011 by the Sierra Madre City Council following a roll call vote:

Ayes

Noes

Absent

Abstain

City Clerk, City of Sierra Madre, CA

Negotiation Meeting

November 9, 2011

The Sierra Madre POA had a majority vote of "NO" for the tentative MOU dated October 19, 2011. These are just a few of the reasons for the "NO" vote and these reasons are not prioritized:

- **Article 4 - Management Rights**

Too much broad discretion from, "establish and change work schedules and assignments as necessary..." to the end of the paragraph;

- **Article 7, Section 2 - City Payment of Employee Contribution for CalPers Retirement**

The POA would only agree for the additional 3% and 2% if nothing was changed in the old MOU;

- **Article 15, Section 2 - Additional Compensation, Security Detail**

Traffic Control \$30 per hour (All movie details should have a police officer present to confirm the movie company is living up to the agreed contract with the City. Traffic Control would also be included. What and who determines the difference between Police Officer and Traffic Control. Who would be allowed to work Traffic Control?).

- **Article 15, Section 4 - Criminal Court Compensation**

Clarification on the 4 hour minimum (if the officer is on his/her day off and has to appear in Court, but the court trial (traffic, criminal or DMV) is only 2 to 3 1/2 hours, the officer is still required to return to work for the remaining time?

- **Article 21, Section 2 - Discipline, Cause for Disciplinary Action**

"Incompleteness or inefficiency in the performance of the employee's duties." What does this mean? Who determines this? Based on what? Too vague and subjective;

"Negligent or willful conduct..." Should be either "Negligent, gross negligent or willful...."

"Any other good and sufficient cause." What does this mean? Who determines? Too broad.

- **Article 22 - Administrative Appeal Procedure (Wanted our Attorney's recommendation)**

No fairness. The City Manager is the Hearing Officer in this Article, but in Article 21, Section 5, Paragraph 3 Discipline, Hearing Procedure, the City Manager can be the prosecutor.

- **Article 22, Section 4, Paragraph 1 - Burden of Proof**

The Department's burden shall be satisfied if the Department establishes that the action was reasonable, even though a reasonable person might disagree about whether the action was the best one under the circumstances. Established with/by whom? Too broad.

- **Article 22, Section 4, Paragraph 2**

Preponderance of the evidence. This is the lowest proof (similar as a civil procedure). Should be beyond a reasonable doubt.

